

ORDINANCE No. 113297

See Ord. 113216

Law Department

COUNCIL BILL No. 105994

The City of Seattle--Legis

AN ORDINANCE ratifying and confirming the passage and approval of Ordinance 113216 as of its effective date, and readopting its provisions following affirmation of a DNS appeal.

REPORT OF COM

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully

COMPTROLLER FILE No. _____

Introduced: JAN 26 1987	By: BENSON <i>in 7 Stat's 2/2/87</i>
Referred: JAN 26 1987	To: FULL COUNCIL on 2/2/87
Referred:	To:
Referred:	To:
Reported: FEB 2 1987	Second Reading: FEB 2 1987
Third Reading: FEB 2 1987	Signed: FEB 2 1987
Presented to Mayor: FEB 3 1987	Approved: FEB 13 1987
Returned to City Clerk: FEB 13 1987	Published:
Vetoc'd by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Committee

See Ord. 113216

Leg. Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully recommend that the same:

be absent.

Committee Chair

GFC:jrs
1/26/87
6ORD2.

#1

LB 105994

ORDINANCE 113297

AN ORDINANCE ratifying and confirming the passage and approval of Ordinance 113216 as of its effective date, and readopting its provisions following affirmance of a DNS appeal.

WHEREAS Ordinance 113216 amending Section 23.44.010 of the Seattle Municipal Code to limit the substandard lot area exception to exclude lots made vacant by demolition of existing housing was passed on December 15, 1986 and approved on December 19, 1986; and

WHEREAS, when Ordinance 113216 was passed and approved, there was pending an appeal to the Hearing Examiner of the declaration of nonsignificance (DNS) of proposed Ordinance 113216; and

WHEREAS, Section 23.76.062 provides that the City Council shall not act on any text amendment to the Land Use Code until the end of the appeal period for the applicable DNS or, if an appeal is filed, until the Hearing Examiner issues a decision affirming the DNS; and

WHEREAS, on January 21, 1987 the Hearing Examiner issued a decision affirming the DNS for proposed Ordinance 113216; Now, Therefore;

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That as of January 18, 1987, the effective date of Ordinance 113216, the passage and approval of said Ordinance 113216 is hereby ratified and confirmed; and as of that date subsection B of Section 23.44.010 of the Seattle Municipal Code, as last amended by Ordinance 111390, is repealed and replaced with a new subsection B to read as follows:

23.44.010 Lot Requirements

* * *

B. Exceptions to Minimum Lot Area

A lot which does not satisfy the minimum lot area requirements of its zone may be developed or redeveloped as a separate building site if:

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2 1. The lot was created by short subdivision,
3 subdivision or lot boundary adjustment, and is
4 at least seventy-five percent of the minimum
5 required lot area and is at least eighty per-
6 cent of the mean lot area of the lots on the
7 same block face within which the lot will be
8 located and within the same zone, Exhibit
9 44.10A; or
- 10 2. The lot area deficit is the result of a dedi-
11 cation or sale of a portion of the lot to the
12 City or State for street or highway purposes
13 and payment was received for only that portion
14 of the lot, and the lot area remaining is at
15 least fifty percent of the minimum required;
16 or
- 17 3. The lot was established as a separate building
18 site in the public records of the County or
19 City prior to July 24, 1957 by deed, contract
20 of sale, mortgage, property tax segregation,
21 platting or building permit and has an area of
22 at least seventy-five percent of the minimum
23 required lot area and at least eighty percent
24 of the mean lot area of the lots on the same
25 block face and within the same zone in which
26 the lot is located. Exhibit 44.10A; or
- 27 4. The lot was established as a separate building
28 site in the public records of the County or
City prior to July 24, 1957 by deed, contract
of sale, mortgage, property tax segregation,
platting or building permit, and either

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- a. The lot is not held in common ownership with any contiguous lot on or after the effective date of this Ordinance; or
 - b. The lot is or has been held in common ownership with a contiguous lot on or after the effective date of this Ordinance and is or has been developed with a principal structure which is wholly within the lot boundaries; provided that no portion of any contiguous lot is required to meet the least restrictive of lot area, lot coverage, setback or yard requirements which were in effect at the time of the original construction of the principal structure, at the time of its subsequent additions, or which are in effect at the time of redevelopment of the lot, Exhibit 44.10B; or
 - c. The lot is or has been held in common ownership with a contiguous lot on or after the effective date of this Ordinance and is not developed with all or part of a principal structure; provided, that no portion of the lot is required to meet the least restrictive of lot area, lot coverage, setback or yard requirements which were in effect for a principal structure on the contiguous lot at the time of the construction of the principal structure, at the time of its

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subsequent additions, or which are in
effect at the time of the development of
the lot, Exhibit 44.10B; and provided
further, that if any portion of the lot
to be developed has been used to meet the
parking requirement in effect for a prin-
cipal structure on a contiguous lot, such
parking requirement can and shall be
legally met on the contiguous lot.

For purposes of this subsection B4, removal of all
of any part of a principal structure or destruction
by fire or act of nature on or after the effective
date of this Ordinance shall not qualify the lot
for the minimum lot area exception, Exhibit
44.10.C.

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(To be used for all Ordinances except Emergency.)

Section . . . This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 2nd day of February, 1967
and signed by me in open session in authentication of its passage on 2nd day of February, 1967.
[Signature]
President of the City Council.

Approved by me this 13th day of February, 1967.
Charles Meyer
Mayor.

Filed by me this 13th day of February, 1967

Attest: Normand J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published

By Thomas J. Dunbar
Deputy Clerk.

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

January 26, 1987

City Council
The City of Seattle

Honorable Members:

On December 15, 1986, the City Council passed Ordinance 113216, entitled:

AN ORDINANCE relating to land use and zoning;
amending Section 23.44.010 of the Seattle
Municipal Code to limit the substandard
lot area exception to exclude lots made
vacant by demolition of existing housing.

The Mayor approved the Ordinance on December 19, 1986.

A recent amendment to the Land Use Code provides that the City Council shall not take action on a Type V land use decision until the appeal period for a DNS or EIS has expired, or if an appeal has been filed until the Hearing Examiner affirms the DNS or EIS. SMC 23.76.062C. When Ordinance 113216 was passed and approved there was an appeal of the DNS for the proposal which resulted in Ordinance 113216. Thus, in passing Ordinance 113216, the City Council failed to follow the direction of SMC 23.76.062. The DNS was affirmed on January 21, 1987.

It is doubtful that the legal affect of passing the ordinance prior to affirmance of the DNS affects the validity of Ordinance 113216. Ordinances imposing procedural requirements such as this are classified as mandatory and directory, and the failure to observe mandatory requirements is fatal to the validity of the action. Failure to observe directory provisions however, does not affect the vitality of the action. The provisions of 23.76.062C are in our opinion directory.

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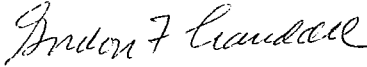
City Council
January 26, 1987
Page Two

To eliminate any doubt as to the validity of Ordinance 113216, we recommend that the passage and approval of Ordinance 113216 be ratified and confirmed as of its effective date, January 18, 1987. Transmitted herewith is a Council Bill to accomplish this result.

Very truly yours,

DOUGLAS N. JEWETT
City Attorney

By


GORDON F. CRANDALL
Senior Assistant

GFC:rlh
Enclosure

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RECEIVED THIS DAY

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GFC:jrs
1/26/87 FEB 26 2 55 PM '87
6ORD2.

1B 105994

BY THE
RECORDS OF
KING COUNTY

87/02/26 #1403 D
RECD F 9.00
CASHSL ***** 00

ORDINANCE 113297

AN ORDINANCE ratifying and confirming the passage and approval of Ordinance 113216 as of its effective date, and readopting its provisions following affirmance of a DNS appeal.

WHEREAS Ordinance 113216 amending Section 23.44.010 of the Seattle Municipal Code to limit the substandard lot area exception to exclude lots made vacant by demolition of existing housing was passed on December 15, 1986 and approved on December 19, 1986; and

WHEREAS, when Ordinance 113216 was passed and approved, there was pending an appeal to the Hearing Examiner of the declaration of nonsignificance (DNS) of proposed Ordinance 113216; and

WHEREAS, Section 23.76.062 provides that the City Council shall not act on any text amendment to the Land Use Code until the end of the appeal period for the applicable DNS or, if an appeal is filed, until the Hearing Examiner issues a decision affirming the DNS; and

WHEREAS, on January 21, 1987 the Hearing Examiner issued a decision affirming the DNS for proposed Ordinance 113216; Now, Therefore;

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That as of January 18, 1987, the effective date of Ordinance 113216, the passage and approval of said Ordinance 113216 is hereby ratified and confirmed; and as of that date subsection B of Section 23.44.010 of the Seattle Municipal Code, as last amended by Ordinance 111390, is repealed and replaced with a new subsection B to read as follows:

23.44.010 Lot Requirements

* * *

B. Exceptions to Minimum Lot Area

A lot which does not satisfy the minimum lot area requirements of its zone may be developed or redeveloped as a separate building site if:

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1. The lot was created by short subdivision, subdivision or lot boundary adjustment, and is at least seventy-five percent of the minimum required lot area and is at least eighty percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone, Exhibit 44.10A; or
2. The lot area deficit is the result of a dedication or sale of a portion of the lot to the City or State for street or highway purposes and payment was received for only that portion of the lot, and the lot area remaining is at least fifty percent of the minimum required; or
3. The lot was established as a separate building site in the public records of the County or City prior to July 24, 1957 by deed, contract of sale, mortgage, property tax segregation, platting or building permit and has an area of at least seventy-five percent of the minimum required lot area and at least eighty percent of the mean lot area of the lots on the same block face and within the same zone in which the lot is located. Exhibit 44.10A; or
4. The lot was established as a separate building site in the public records of the County or City prior to July 24, 1957 by deed, contract of sale, mortgage, property tax segregation, platting or building permit, and either

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- 2 a. The lot is not held in common ownership
- 3 with any contiguous lot on or after the
- 4 effective date of this Ordinance; or
- 5 b. The lot is or has been held in common
- 6 ownership with a contiguous lot on or
- 7 after the effective date of this
- 8 Ordinance and is or has been developed
- 9 with a principal structure which is
- 10 wholly within the lot boundaries; pro-
- 11 vided that no portion of any contiguous
- 12 lot is required to meet the least
- 13 restrictive of lot area, lot coverage,
- 14 setback or yard requirements which were
- 15 in effect at the time of the original
- 16 construction of the principal structure,
- 17 at the time of its subsequent additions,
- 18 or which are in effect at the time of
- 19 redevelopment of the lot, Exhibit 44.10B;
- 20 or
- 21 c. The lot is or has been held in common
- 22 ownership with a contiguous lot on or
- 23 after the effective date of this
- 24 Ordinance and is not developed with all
- 25 or part of a principal structure; pro-
- 26 vided, that no portion of the lot is
- 27 required to meet the least restrictive of
- 28 lot area, lot coverage, setback or yard
- requirements which were in effect for a
- principal structure on the contiguous lot
- at the time of the construction of the
- principal structure, at the time of its

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subsequent additions, or which are in effect at the time of the development of the lot, Exhibit 44.10B; and provided further, that if any portion of the lot to be developed has been used to meet the parking requirement in effect for a principal structure on a contiguous lot, such parking requirement can and shall be legally met on the contiguous lot.

For purposes of this subsection B4, removal of all of any part of a principal structure or destruction by fire or act of nature on or after the effective date of this Ordinance shall not qualify the lot for the minimum lot area exception, Exhibit 44.10.C.

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(To be used for all Ordinances except Emergency.)

STATE OF WASHINGTON)
COUNTY OF KING) SS
CITY OF SEATTLE)

I, NORWARD J. BROOKS, Comptroller and City Clerk of the City of Seattle,
do hereby certify that the within and foregoing is a true and correct copy of
the original instrument as the same appears on file, and of record in this
department.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal
of The City of Seattle, this 17th day of February, 1987

NORWARD J. BROOKS
Comptroller and City Clerk

By: Theresa Dunbar
Deputy Clerk

Section . . . This ordinance shall take effect and be in force thirty days from and after its passage and
approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the
provisions of the city charter.

Passed by the City Council the 2nd day of February, 1987
and signed by me in open session in authentication of its passage this 2nd day of
February, 1987.

Approved by me this 13th day of February, 1987.
Charles Roper
Mayor.

Filed by me this 13th day of February, 1987.

Attest: Norward J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published

By: Theresa Dunbar
Deputy Clerk.

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City of Seattle

ORDINANCE 113216

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1. The lot was created by short subdivision, subdivision or lot boundary adjustment, and is at least seventy-five percent of the minimum required lot area and is at least eighty percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone, Exhibit 44.10A; or
2. The lot area deficit is the result of a dedication or sale of a portion of the lot to the City or State for street or highway purposes and payment was received for only that portion of the lot, and the lot area remaining is at least fifty percent of the minimum required; or
3. The lot was established as a separate building site in the public records of the County or City prior to July 24, 1957 by deed, contract of sale, mortgage, property tax segregation, platting or building permit and has an area of at least seventy-five percent of the minimum required lot area and at least eighty percent of the mean lot area of the lots on the same block face and within the same zone in which the lot is located. Exhibit 44.10A; or
4. The lot was established as a separate building site in the public records of the County or City prior to July 24, 1957 by deed, contract of sale, mortgage, property tax segregation, platting or building permit, and either

- a. The lot is not held in common ownership with any contiguous lot on or after the effective date of this Ordinance; or
- b. The lot is or has been held in common ownership with a contiguous lot on or after the effective date of this Ordinance and is or has been developed with a principal structure which is wholly within the lot boundaries; provided that no portion of any contiguous lot is required to meet the least restrictive of lot area, lot coverage, setback or yard requirements which were in effect at the time of the original construction of the principal structure, at the time of its subsequent additions, or which are in effect at the time of redevelopment of the lot, Exhibit 44.10B; or
- c. The lot is or has been held in common ownership with a contiguous lot on or after the effective date of this Ordinance and is not developed with all or part of a principal structure; provided, that no portion of the lot is required to meet the least restrictive of lot area, lot coverage, setback or yard requirements which were in effect for a principal structure on the contiguous lot at the time of the construction of the principal structure, at the time of its subsequent additions, or which are in effect at the time of the development of the lot, Exhibit 44.10B; and provided further, that if any portion of the lot to be developed has been used to meet the parking requirement in effect for a principal structure on a contiguous lot, such parking requirement can and shall be legally met on the contiguous lot.

For purposes of this subsection B4, removal of all of any part of a principal structure or destruction by fire or act of nature on or after the effective date of this Ordinance shall not qualify the lot for the minimum lot area exception, Exhibit

44.10.C.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 2nd day of February, 1987, and signed by me in open session in authentication of its passage this 2nd day of February, 1987.

SAM SMITH,
President of the City Council.

Approved by me this 13th day of February, 1987.

CHARLES ROYER,
Mayor.

Filed by me this 13th day of February, 1987.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.

(Seal) By THERESA DUNBAR,
Deputy Clerk.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, February 18, 1987. (C-711-X)

C-711-X

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 113297

was published on February 18, 1987

.....
Subscribed and sworn to before me on

February 18, 1987

.....
Notary Public for the State of Washington,
residing in Seattle.

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